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JUN 11 2010

## FAX COVER SHEET

OFFICE OF PETITIONS

FAX NUMBER TRANSMITTED TO: (571) 273-6500

To: Maintenance Fee Office

Firm: U.S. Patent and Trademark Office

From: Rosenbaum &amp; Silvert, P.C.

Client/Matter: 6051-009

Date: June 8, 2010

DOCUMENTS	NUMBER OF PAGES*
Transmittal	1
Explanation of Facts regarding Payment of Maintenance Fee	3
Scanned Copy of Check	1
Scanned Copy of Maintenance Fee Transmittal Form	1
TOTAL	6

COMMENTS: In re: Mistaken lapse of patent due to alleged nonpayment of 3.5-year maintenance fee  
U.S. Patent No. 7,018,408  
First Named Inventor: Steven R. Bailey  
Our File No. 6051-009

THE INFORMATION CONTAINED IN THIS FACSIMILE COMMUNICATION MAY BE CONFIDENTIAL AND IS INTENDED SOLELY FOR THE USE OF THE RECIPIENT NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, ANY DISSEMINATION, DISTRIBUTION, COPYING OR OTHER USE OF THIS COMMUNICATION FOR ANY PURPOSE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE TELEPHONE THE SENDER IMMEDIATELY, AND MAIL THE ORIGINAL COMMUNICATION TO THE SENDER AT THE ABOVE ADDRESS. THANK YOU

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Inventor: Steven R. Bailey, et al. Attorney Docket: 6051-009  
Patent No.: 7,018,408 Application No.: 10/720,932  
Issued: 03/28/2006 Examiner: A. Stewart  
For: ENDOLUMINAL CARDIAC AND VENOUS VALVE PROSTHESES AND METHODS OF  
MANUFACTURE AND DELIVERY THEREOF

OFFICE OF PETITIONS

Maintenance Fee Office  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## COMMUNICATION

Dear Sir:

This letter addresses the mistaken lapse of the above-captioned patent due to alleged nonpayment of the 3.5-year maintenance fee that was due no later than March 29, 2010. In fact, we did timely pay the maintenance fee. The following discussion sets forth how this firm followed all pertinent regulations in making the requisite 3.5-year maintenance payment. Accordingly, we request the Office reinstate the above-captioned patent as the fully paid-up, current patent that it is.

On March 29, 2010, this firm deposited into a U.S. postal box an envelope containing Maintenance Fee Transmittal Form PTO/SB/45 and a check for \$1,110.00, copies of which are attached. The sum of the check included \$980.00 for the payment of the 3.5-year maintenance fee (per 37 CFR §1.20(e)) plus \$130.00 for the payment of the surcharge for late payment within six months of \$130.00 (per 37 CFR §1.20(h)). The envelope had affixed to it sufficient postage for first class mail with the U.S. Postal Service.

As can readily be observed on the attached copies, both the Maintenance Fee Transmittal Form and the check clearly show the date of mailing: March 29, 2010. Included in the Maintenance Fee Transmittal Form is a certificate of correspondence, signed and dated March

## Certificate of Facsimile

I certify that this correspondence (along with any documents referenced as being included herewith) is being facsimile transmitted on June 8, 2010 to the United States Postal Service, Maintenance Fee Office (Fax No. (571) 273-6500)



Lori Dunham

74223

Patent No. 7,018,408  
6/8/2010  
Attorney Docket No. 6051-009

29, 2010, and a recital that "a check for the amount of \$1,110.00 for the full payment of the maintenance fee and any necessary surcharge is enclosed."

March 29, 2010 was the last day of the 6-month grace period for paying the maintenance fee provided by 37 CFR §1.362(e). The Issue Date for the patent is March 28, 2006, making the four-year anniversary March 28, 2010. However, as March 28, 2010 was a Sunday, the final day was the following business day at the USPTO, *i.e.*, March 29, 2010. Therefore, our mailing on that day was timely.

If necessary, we can and will provide an affidavit relating to our procedures and the fact that the aforementioned payment was timely deposited into a U.S. postal box. We have no way of knowing how, why, or where the payment was lost, but unfortunately such an event cannot be considered impossible as it is well-known that individual pieces of mail are lost regularly.

According to 37 CFR §1.8(a)(i)(1)(A) and §1.8(a)(ii), correspondence required to be filed in the USPTO within a set period of time will be considered timely filed if the correspondence is addressed as set out in 37 CFR §1.1(a), include a signed and dated mailing certificate, and is deposited with the U.S. Postal Service with sufficient postage for first class mail. Importantly, the code section does not require the U.S. Postal Office to provide any proof of receipt. As noted above, this firm complied with the prescribed procedures. In light of these facts, the correspondence and payment sent on March 29, 2010 meets the requirements of 37 CFR § 1.8(a) and should be considered timely filed in spite of its non-receipt by the USPTO.

Our bank records are consistent with a lost check: Check #8743 for \$1,110.00 has not been presented for payment. Accordingly, the Director is hereby authorized to replace the funds represented by the lost check by deducting \$1,110.00 from the Deposit Account No. 18-2000 of Rosenbaum & Silvert, P.C., of which the undersigned is an authorized signatory.

In view of the above, the Commissioner is hereby requested to reinstate U.S. Patent 7,018,408 to unexpired and unexpired standing because the 3.5-year maintenance fee and 6-month grace period surcharge were timely submitted in accordance with established procedures.

Patent No. 7,018,408

6/8/2010

Attorney Docket No. 6051-009

If there are any questions regarding this matter, please do not hesitate to contact me.

Respectfully submitted,



Donald J. Silvert, Ph.D.  
Registration No. 37,552

June 8, 2010

ROSENBAUM & SILVERT, P.C.

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JUN 11 2010

## OFFICE OF PETITIONS

PTO/SB/45 (03-09)

Approved for use through 03/31/2012. OMB 0851-0018

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## MAINTENANCE FEE TRANSMITTAL FORM

(Do not submit this form electronically via EFS-Web)

Address to:  
 Director of the United States  
 Patent and Trademark Office  
 Attn: Maintenance Fee  
 2051 Jamieson Avenue, Suite 300  
 Alexandria, VA 22314  
 - OR -  
 Fax to: 571-273-6500

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314" on March 29, 2010.

Signature Lori DunhamTyped or printed name Lori Dunham

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

1. ☒ A check for the amount of \$ 1,110.00 for the full payment of the maintenance fee(s) and any necessary surcharge is enclosed.
2. ☐ Payment by credit card. Form PTO-2038 is enclosed.
3. ☐ The Director is hereby authorized to charge \$ \_\_\_\_\_ to cover the payment of the fee(s) indicated below to Deposit Account No. \_\_\_\_\_.
4. ☒ The Director is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 18-2000.

\*Information required by 37 CFR 1.366(c) (columns 1 &amp; 2). Information requested under 37 CFR 1.366(d) (columns 3, 4, &amp; 5)

Item	Patent Number*  Column 1	U.S. Application Number* (e.g., 08/555,555)  Column 2	Maintenance Fee Amount (37 CFR 1.20 (e)-(g))  Column 3	Surcharge Amount (37 CFR 1.20(h))  Column 4	Payment Year (select one below) Column 5		
					3.5 yrs	7.5 yrs	11.5 yrs
1	7,018,408	10/720,932	980.00	130.00	✓		
2							
3							
4							
5							
Subtotals: Columns 3 & 4			980.00	130.00	<input type="checkbox"/> additional sheets attached for listing additional patents.		
Total Payment			\$1,110.00				

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on Form PTO-2038.**

Respectfully submitted,\*\*

Customer's Signature: David G. RosenbaumCustomer's name: David G. RosenbaumRegistration Number, if applicable: 31,872Telephone: 847-770-6000Fax: 847-770-6006

Note. All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. See 37 CFR 1.363.

Payment of small entity fee is appropriate if small entity status still exists, see 37 CFR 1.27(g). To establish small entity status or to change status from small to large entity, a written assertion is required. See 37 CFR 1.27 and 1.33(b).

\*\*WHERE MAINTENANCE FEE PAYMENTS ARE TO BE MADE BY AUTHORIZATION TO CHARGE A DEPOSIT ACCOUNT, BOTH THE NAME AND SIGNATURE OF AN AUTHORIZED USER ARE REQUIRED.

This collection of information is required by 37 CFR 1.366. This information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending on the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS, SEND TO: United States Patent and Trademark Office, PO Box 979070, St. Louis, MO 63197-9000.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## ROSENBAUM &amp; SILVERT, P.C.

3/29/2010 Assistant Commissioner of Patents

8743

Invoice Date	Invoice No.	Matter ID	Matter Description
3/29/2010	7,018,408	6051-009	US: Patent No. 7,018,408 DIV: Endoluminal Cardiac and Venous

Amount	Account No.	Description	Amount
1,110.00	15010	4th Year Maintenance Fee	1,110.00

FOR SECURITY PURPOSES, THE FACE OF THIS DOCUMENT CONTAINS A COLORED BACKGROUND AND ENCRYPHMENT IN THE BORDER

## ROSENBAUM &amp; SILVERT, P.C.

850 DUNDEE ROAD  
SUITE 380  
NORTHBROOK, IL 60062  
PHONE: (847) 770-6000

JPMORGAN CHASE BANK, N.A.  
CHICAGO, IL 60670

2-1/710

8743

DATE

AMOUNT

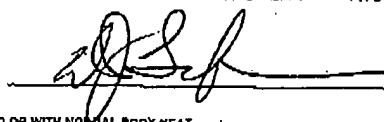
3/29/2010

1,110.00

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Alexandria, VA 22313-1450

AUTHORIZED SIGNATURE



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64442344⑈

## ROSENBAUM &amp; SILVERT, P.C.

8743

3/29/2010 Assistant Commissioner of Patents

Invoice Date	Invoice No.	Description	Matter ID	Amount
3/29/2010	7,018,408	4th Year Maintenance Fee	6051-009	1,110.00